

TITLE 17 PUBLIC UTILITIES AND UTILITY SERVICES
CHAPTER 11 TELECOMMUNICATIONS
PART 20 EXPEDITED INTER-CARRIER COMPLAINT PROCEDURES

17.11.20.1 ISSUING AGENCY: New Mexico Public Regulation Commission.
[17.11.20.1 NMAC - N, 1-1-01]

17.11.20.2 SCOPE: This rule applies to all carriers providing telecommunications services in New Mexico.
[17.11.20.2 NMAC - N, 1-1-01]

17.11.20.3 STATUTORY AUTHORITY: NMSA 1978 Sections 8-8-4, 8-8-15, and 63-9A-8.2.
[17.11.20.3 NMAC - N, 1-1-01]

17.11.20.4 DURATION: Permanent.
[17.11.20.4 NMAC - N, 1-1-01]

17.11.20.5 EFFECTIVE DATE: January 1, 2001, unless a later date is cited at the end of a section.
[17.11.20.5 NMAC - N, 1-1-01]

17.11.20.6 OBJECTIVE: The purpose of this rule is to establish expedited complaint procedures for resolving disputes between carriers.
[17.11.20.6 NMAC - N, 1-1-01]

17.11.20.7 DEFINITIONS: As used in this rule:

A. carrier means any person that furnishes telecommunications service to the public subject to the jurisdiction of the commission, regardless of the facilities used and regardless of whether the person relies in part or entirely on another carrier's facilities.

B. telecommunications provision includes the New Mexico Telecommunications Act, NMSA 1978 Section 63-9A-1 et seq.; any order or rule of the commission issued pursuant to the New Mexico Telecommunications Act; the federal Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) and related federal communications commission regulations and orders; a tariff or price list filed with the commission; or a contract or interconnection agreement between carriers.

[17.11.20.7 NMAC - N, 1-1-01]

17.11.20.8 EXCEPTION: The procedure established in this rule is an exception to 17.1.2.17 and 17.1.2.18 NMAC.

[17.11.20.8 NMAC - N, 1-1-01]

17.11.20.9 RIGHT TO FILE EXPEDITED COMPLAINT: Pursuant to NMSA 1978 Section 8-8-12.1, any carrier may file an expedited complaint with the commission setting forth any act or omission by another carrier alleged to be in violation of any telecommunications provision or otherwise adversely affecting quality of service between carriers.

[17.11.20.9 NMAC - N, 1-1-01]

17.11.20.10 NOTICE OF INTENT TO FILE EXPEDITED COMPLAINT: At least ten (10) calendar days prior to filing an expedited complaint with the commission, the complainant carrier shall provide written notice to the commission and the respondent carrier that the complainant carrier intends to file an expedited complaint. The notice of intent to file an expedited complaint must:

A. identify the telecommunications provision that the complainant carrier alleges was violated by the respondent carrier's act or omission and specifically describe how the respondent carrier's conduct or failure to act allegedly violates the telecommunications provision; or

B. identify the telecommunications service that the complainant carrier alleges was adversely affected by the respondent carrier's act or omission and specifically describe how the respondent carrier's conduct or failure to act adversely affects the provision of telecommunications service between carriers; and

C. be delivered and served in the manner set forth in 17.11.20.12 NMAC.

[17.11.20.10 NMAC - N, 1-1-01]

17.11.20.11 CONTENTS OF EXPEDITED COMPLAINT: The expedited complaint shall clearly state that it is filed pursuant to this rule and shall conform to the requirements of 17.1.2 NMAC, Utility Division Procedures, governing pleadings. The expedited complaint must also:

A. contain a statement, including specific facts, demonstrating that the complainant carrier engaged in good faith negotiations with the respondent carrier to resolve the disagreement, and that the parties failed to resolve the issue;

B. contain a copy of the telecommunications provision that the complainant carrier contends is being violated, or a statement explaining how the respondent carrier's act or omission is adversely affecting quality of service between carriers;

C. set forth facts demonstrating failure to comply with the telecommunications provision, or facts demonstrating conduct adversely affecting quality of service between carriers; the factual statement must be supported by one or more affidavits, declarations or other sworn statements, made by persons having personal knowledge of the relevant facts; and

D. certify that written notice of intent to file an expedited complaint was delivered and served in the manner set forth in 17.11.20.12 NMAC.

[17.11.20.11 NMAC - N, 1-1-01]

17.11.20.12 SERVICE OF NOTICE OF INTENT AND COMPLAINT: The complainant carrier shall, on or before the respective dates the notice of intent and expedited complaint are filed with the commission:

A. deliver the notice of intent or expedited complaint to the respondent carrier's authorized representative, attorney of record, or designated agent for service of process; and

B. serve the notice of intent or expedited complaint on:

(1) the respondent carrier's representatives with whom the complainant carrier conducted the negotiations required by Subsection A of 17.1.2.16 NMAC; and

(2) all parties designated in the interconnection agreement to receive notices.

[17.11.20.12 NMAC - N, 1-1-01]

17.11.20.13 ANSWER: The respondent carrier shall satisfy, answer or otherwise respond to the expedited complaint within ten (10) calendar days of the date the expedited complaint is delivered. The answer shall be filed with the commission and delivered to the complainant carrier on the same day.

[17.11.20.13 NMAC - N, 1-1-01]

17.11.20.14 PRE-HEARING CONFERENCE:

A. The commission, or a hearing examiner designated by the commission, shall hold a pre-hearing conference no later than fifteen (15) calendar days after the date the expedited complaint was filed. At the discretion of the presiding officer, the pre-hearing conference may be conducted by telephone.

B. The presiding officer shall determine whether the issues raised in the expedited complaint can be decided based on the pleadings and submissions, or whether further proceedings are necessary.

C. If the presiding officer determines that further proceedings are necessary, the presiding officer shall establish a schedule for receiving additional facts or evidence and may, in his or her discretion, schedule a hearing to explore the facts and issues raised in the expedited complaint and the answer. If the presiding officer determines a hearing is necessary, he or she shall schedule the hearing for no later than thirty (30) calendar days from the date the expedited complaint was filed.

D. The presiding officer may rule on any motions and schedule any discovery necessary in the proceeding.

[17.11.20.14 NMAC - N, 1-1-01]

17.11.20.15 RECOMMENDED DECISION: The hearing examiner shall issue a recommended decision within forty-five (45) calendar days after the date the expedited complaint was filed. The parties may file exceptions to the recommended decision on a schedule established by the hearing examiner.

[17.11.20.15 NMAC - N, 1-1-01]

17.11.20.16 COMMISSION DECISION: The commission shall issue a final decision containing findings of fact and conclusions of law within sixty (60) calendar days after the date the expedited complaint was filed.

[17.11.20.16 NMAC - N, 1-1-01]

17.11.20.17 EXTENSION OF TIME FOR GOOD CAUSE: For good cause shown, the commission or hearing examiner may extend the time for resolution of a complaint filed pursuant to this rule beyond sixty (60) days. An order for extension of time shall state with specificity the reasons for and length of the extension. Any such extension may, if appropriate, also include extensions of any other procedural deadlines established by this rule.

[17.11.20.17 NMAC - N, 1-1-01]

17.11.20.18 JOINDER AND CONSOLIDATION: The commission may allow joinder or consolidation in one hearing of all matters upon which the expedited complaint is founded. However, an expedited complaint shall not be defective for misjoinder or nonjoinder of parties or causes.

[17.11.20.18 NMAC - N, 1-1-01]

History of 17.11.20 NMAC: [RESERVED]